

**NO. 200-D-95-907**

**NUCLEAR REGULATORY COMMISSION**

**DRAFT STRATEGIC PLAN**

**ENVIRONMENTAL JUSTICE**

## ENVIRONMENTAL JUSTICE IMPLEMENTATION PLAN

### Introduction:

The Nuclear Regulatory Commission (NRC) was created by the Energy Reorganization Act of 1974 as an independent regulatory agency. The mission of the NRC is to assure that civilian uses of nuclear materials in the United States---in nuclear power plants, fuel cycle plants, and in medical, industrial and research applications---are carried out with proper regard for the protection of the public health and safety, of the environment and of national security. The NRC is not a "land management" agency, i.e., it neither sites, owns, nor manages facilities or properties. Therefore, the President's February 11, 1994, Executive Order "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Population" and the accompanying Presidential memorandum have been determined to primarily apply to our efforts to fulfill the requirements of the National Environmental Policy Act (NEPA) as an integral part of NRC's licensing process.

In this regard, the NRC has committed to following the Council on Environmental Quality (CEQ) guidelines on how to take environmental justice<sup>1</sup> into account under NEPA. However, pending receipt of these guidelines, the NRC has developed its initial environmental justice implementation plan based on the five principles discussed below.

### Background:

The President's Executive Order directs all Federal agencies to develop, according to prescribed timetables, strategies for assuring environmental justice in their programs, policies, and activities. The Presidential memorandum to all agencies is a reminder of relevant provisions of existing law, including the requirement to consider, when environmental impact statements and other environmental documents are prepared, the effects of Federal actions on minority and low-income communities. Although independent agencies, such as the NRC, were only requested to comply with the Executive Order, the Chairman, in his March 31, 1994 letter to the President, indicated that the NRC would endeavor to carry out the measures set forth in the Executive Order, and the accompanying memorandum.

In addition, the Executive Order directed the Administrator of the Environmental Protection Agency (EPA) to convene, by May 11, 1994, an interagency working group (IWG) to develop the general guidance that Federal agencies are to use in identifying disproportionate effects on minority and low-income populations. To assure Government-wide consistency, the IWG is to coordinate with, and serve as a clearinghouse, for each Federal agency as it

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<sup>1</sup> The NRC is using the working definition of environmental justice as suggested by the Environmental Protection Agency's Environmental Justice Office. Thus, for purposes of this document, environmental justice means the fair treatment and meaningful involvement of all people, regardless of race, ethnicity, culture, income or educational level with respect to the development, implementation and enforcement of environmental laws, regulations and policies.



develops its particular environmental justice strategy. The NRC has been a participant in the IWG, its Subcommittee on Policy and Coordination and the task forces on "Implementation" and Definitions and Standards" since their inception, and has identified an internal NRC Environmental Justice Working Group. To date, the NRC has submitted all work products to the EPA on time, and shared information with myriad Subcommittee and Task Force members. This draft Environmental Justice Implementation Plan reflects our participation in these discussions.

#### Principles of Environmental Justice Implementation:

The goal of the NRC's Environmental Justice Implementation Plan is to integrate environmental justice into the conduct of all pertinent activities at the agency. Thus, the first three principles are institutional in nature and serve as the foundation for the last two principles which are operational in nature, i.e., they address specific activities. The principles emulate the "Principles of Good Regulation" which have been part of NRC policy for several years.

##### **Continue senior management involvement**

The NRC Environmental Justice efforts will continue to provide guidance in this area. An Environmental Justice Coordinator will be appointed to ensure appropriate policy information flow among the different entities within the NRC, as well as with outside interested parties.

##### **Openness and Clarity**

Nuclear regulation is the public's business, and must be transacted publicly and candidly. Agency positions should be readily understood and easily applied.<sup>2</sup> This is of particular import when dealing with environmental justice issues. Public scoping meetings as part of the NEPA process demonstrates this principle.

##### **Seeking and Welcoming Public Participation**

The NRC maintains regular communication with a broad spectrum of entities, such as the States, Indian Tribes, members of the public and other Federal agencies. Outreach programs such as the Enhanced Participatory Rulemaking, which addresses the use of Site Specific Advisory Boards for decommissioning are being implemented. The NRC management is committed to improving our outreach efforts with stakeholders, such as minority and low-income communities, and welcoming their input.

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<sup>2</sup> From the agency's "Principles of Good Regulations" issued in January 17, 1991, announcement #6.



## **Integration of Environmental Justice into NRC's NEPA Activities**

NRC is committed to implementing the CEQ guidelines on this subject. It is our belief that the key factor for environmental justice is assessing to whom the benefits, and the costs, will accrue, i.e., we believe the most difficulty will occur in evaluating the extent to which the minority or low-income communities will receive a share of the economic benefits of a project and the extent to which they are specifically impacted by a proposed project.

## **Continue Review and Monitoring of Title VI Activities**

The NRC's financial assistance programs under Title VI of the Civil Rights Act Of 1964, are limited to funding training and travel under Section 274 of the Atomic Energy Act of 1954 as amended, in connection with States assuming certain regulatory authority over specified nuclear materials, and the award of grants for the support of basic and applied scientific research and for the exchange of scientific information. 10 CFR Part 4 calls for nondiscrimination with respect to race, color, national origin or sex in any program or activity receiving Federal financial assistance from the NRC. NRC is committed to monitoring this activity.

Current Activities where NRC is implementing environmental justice:

The NRC's statutory offices---the Office of Nuclear Reactor Regulation which regulates nuclear power plants; the Office of Nuclear Material Safety and Safeguards which regulates materials uses; and the Office of Nuclear Regulatory Research responsible for rulemakings and confirmatory research---were requested to assess their existing environmental activities and to endeavor, even without the CEQ guidelines, to integrate environmental justice into these activities. Below is a summary of these efforts.

- Currently, the staff of the Office of Nuclear Reactor Regulation (NRR) is reviewing the issue of environmental justice in its supplement to the Final Environmental Statement Related to the Operation (FES-OL) of the Watts Bar Nuclear (WBN) site. In preparing this supplement to the FES-OL, NRR will solicit input on accrued benefits, as well as, any burden from negative impacts from operation on the WBN site on low-income/minority groups. The WBN site review will provide the NRC with a means to begin assessing the effectiveness of its NEPA process in addressing environmental justice issues for operating reactors. Additionally, the "Environmental Standard Review Plan for the Environmental Review of Construction Permit Applications for Nuclear Power Plants," ESRP (NUREG-0550), will include staff review guidance on evaluation of environmental justice. NRR intends to utilize workshops and media announcements to solicit input from affected minority communities. NRR anticipates gaining considerable information in this project relative to demonstrating the feasibility of addressing environmental justice issues.



- NRR conducts an extensive public scoping process (i.e., workshops, local town meetings, etc.) in the preparation of environmental impact statements for major licensing actions in order to solicit input from the public on the issues to be reviewed. This scoping process will attempt, to the maximum extent possible, to include specific solicitations from minority and low-income communities on environmental justice issues. Additionally, environmental impact statements are published in draft in order to solicit public comments prior to the proposed actions being taken. Public comment and opportunity for hearing are solicited via Federal Register notice.
- Louisiana Energy Services (LES) applied to the NRC in January 1991, for a license to build a uranium enrichment plant in Homer, Louisiana. Northern Louisiana is an economically depressed area, and the proposed site at Homer is populated almost entirely by African Americans. The Office of Nuclear Material Safety and Safeguards (NMSS) issued the Draft Environmental Impact Statement in November 1993. Since the Executive Order had not been issued there was no discussion of environmental justice in the Draft EIS. The Final Environmental Impact Statement was issued in August 1994. It contains a discussion of environmental justice, including a description of the surrounding neighborhoods, the site selection process, possible discrimination, and possible disproportionate impact. The statement concludes that there is no evidence of discrimination, and that there will be no significant disproportionate impacts on minorities or economically disadvantaged persons. The issue of environmental justice is one of several to be litigated in an NRC adjudicatory hearing in early 1995.

In the future, NMSS believes that a separate section on environmental justice should be included in each environmental impact statement. However, including environmental justice pending receipt of the CEQ guidance will be based in large part on the lessons-learned from the LES licensing hearing.

- As appropriate, the Office of Nuclear Material Safety and Safeguards conducts public meetings related to a facility. These meetings are noticed in local papers and anyone can attend and participate. Written comment on rulemakings and draft Environmental Impact Statements are solicited from the general public. These programs could be expanded to attempt to identify and notify interested minority groups, and specifically invite them to comment on proposed NRC actions.
- The Office of Nuclear Regulatory Research (RES) is using an enhanced participatory process for developing radiological criteria for decommissioning. As part of this process, the NRC conducted a series of seven workshops from January through May 1993. Workshop participants represented a broad spectrum of interests including interests related to environmental justice.

The resulting proposed rule on Radiological Criteria for Decommissioning, published for comment on August 22, 1994 (59 FR 43200), requires that a Site Specific Advisory Board (SSAB) be convened in cases where a licensee proposes to request restricted release of the site. The purpose of the SSAB is to allow affected parties to advise the



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licensee regarding the proposed decommissioning. Membership of the SSAB would, to the extent that representatives are willing to participate, include representatives from citizen, environmental, environmental justice, and other public groups; State and local governments; and Indian Nation or other indigenous people that have treaty or statutory rights that could be affected.

#### Follow-Up Activities:

This draft plan is being submitted to the IWG on December 11, 1994 as called for in the President's Executive Order. The NRC is soliciting comments on the draft plan from the IWG. The IWG is expected to provide its comments before the February 11, 1995 date when the proposed final plan is due. The current draft plan will be placed in the NRC's Public Document Room, and will be shared with stakeholders as appropriate. After the comments on the draft plan are received, analyzed, and appropriate modifications made, we intend to propagate the proposed final plan to affected populations, through specialized media, workshops, or focus groups. The proposed final plan will also be published for comments in the Federal Register.